

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA ex rel.
Meredith McCoyd,

Plaintiffs,

v.

ABBOTT LABORATORIES, *et al.*

Defendants.

Case No. 1:07CV00081

UNOPPOSED MOTION TO CONSOLIDATE AND STAY

The United States respectfully moves the Court to (1) consolidate this civil action with three related actions pending in this district,¹ and (2) stay the consolidated proceedings up to and including July 8, 2011. The requested consolidation and stay are an appropriate exercise of the Court's inherent authority to control the disposition of cases on its docket and should be entered by the Court. The individual plaintiff states, relators in the four related actions, and defendant Abbott Laboratories ("Abbott") all consent to this motion.

Between October 2007 and January 2010, relators filed four *qui tam* complaints against Abbott pursuant to the False Claims Act, 31 U.S.C. § 3730(b). All four complaints allege unlawful promotion of the prescription drug Depakote. On February 1, 2011, the government intervened in the four *qui tam* actions. The current deadline for the government to file its complaint-in-intervention is May 31, 2011.

Consolidating the four *qui tam* actions would serve the interests of judicial efficiency.

¹ The four actions that would be consolidated are: *United States ex rel. McCoyd v. Abbott Labs.*, Civil Action No. 1:07cv00081; *United States ex rel. Mulcahy, et al. v. Abbott Labs.*, Civil Action No. 1:08cv00054; *United States ex rel. Dietzler v. Abbott Labs.*, Civil Action No. 1:09cv00051; *United States ex rel. Spetter v. Abbott Labs.*, Civil Action No. 1:10cv00006.

Given the substantial overlap between the parties and issues, the government intends to file only one complaint-in-intervention in the four actions. Consolidating the actions would avoid having nearly identical filings made in four different actions.

Likewise, granting a short stay of the consolidated actions will also contribute to judicial economy. The parties are engaged in active settlement discussions. The short extension would allow the parties to determine if a negotiated resolution is possible, which could reduce the demand on judicial resources.

In order to conserve judicial resources as well as those of the parties, the United States respectfully requests that the Court consolidate the four related *qui tam* actions and stay the consolidated proceedings through and including July 8, 2011. The individual states, relators, and Abbott all consent to this motion. For the Court's convenience, a draft order has been attached to the Motion.

Respectfully submitted,

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**Attorneys for Plaintiff
United States of America**

Dated: May 20, 2011

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2011, I electronically filed the foregoing Unopposed Motion to Consolidate and Stay with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following parties: the relator(s) in this case, California, District of Columbia, Delaware, Florida, Georgia, Hawaii, Indiana, Michigan, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Texas and Virginia, as reflected in the Service List. I hereby certify that I have mailed, by United States Postal Service, the foregoing Notice of Appearance to the non-CM/ECF participants listed below and to Abbott Laboratories, c/o James L. Brochin, Paul, Weiss, Rifkind, Wharton and Garrison, L.L.P. at 1285 Avenue of the Americas, New York, New York 10019-6064, on May 12, 2011.

Dated: 05/20/11

/s/ Daniel P. Bubar
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